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SUBJECT: U.S. POLICY TOWARDS DEMOCRATIC REFORM IN HONG KONG
REF: HONG KONG 2125

Classified By: Acting Consul General Christopher Marut
for reasons 1.4(b) and (d).

11. (C) This is an action request. Post requests Department concurrence with a set of core points and initial outreach strategy to express key U.S. interests in Hong Kong's successful transition to elections by universal suffrage in accordance with the Basic Law. Our diplomacy, both government-to-government and with the Hong Kong public, will ensure our message and goals are articulated by us rather than being characterized by others.

Context

12. (C/rel UK) As reported in ref (a), Hong Kong began a three-month consultation on the next stage of its democratic reforms November 19. This process, focused on electoral arrangements for the 2012 Chief Executive and Legislative Council (LegCo) elections, has occasioned a much broader debate on how Hong Kong will achieve its ultimate goal of elections by universal suffrage. The government continues to insist only arrangements for 2012 are open for discussion and eventual legislative action. However, the government's proposals for 2012 will get past the pan-democrats 23-member "blocking minority" in LegCo only if the pan-democrats have confidence that the elections for Chief Executive and LegCo to be held in 2017 and 2020 respectively will meet a recognized standard of "universal suffrage." Among pan-democratic parties in LegCo, the League of Social Democrats and Civic Party have announced plans to have five members resign from LegCo and use the resulting by-elections as a "referendum" on the HKG's proposed constitutional reforms (ref b).

2007 Decision Sets Terms of Discussion

13. (C/rel UK) Articles 45 and 68 of the Hong Kong Basic Law set as Hong Kong's "ultimate aim" the election by universal suffrage of the Chief Executive and the whole of LegCo respectively. The NPC/SC, in its December 2007 decision, reaffirmed this goal (ref c). The NPC/SC decision stated that the 2012 election of the fourth CE shall not be implemented by the method of electing all the members by universal suffrage. For the CE election, the decision defined a universal suffrage election as being by "all registered electors of the Hong Kong Special Administrative Region." The terms of discussion for Hong Kong's democratic reform have thus been set and agreed in both Hong Kong and Beijing.

While Focus Intensifies on Definition of Universal Suffrage

14. (C/rel UK) Considerable attention in Hong Kong is now focused on the definition of "universal suffrage." The pan-democrats are insisting on the standard enshrined in Article 25(b) of the International Covenant on Civil and Political Rights (ICCPR), which specifies "(Every citizen shall have the right) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage." However, in applying the ICCPR to Hong Kong in 1976, the UK took a reservation such that it would not apply Article 25, since Hong Kong at that time had an appointed Governor and an unelected LegCo. Although the UN's ICCPR compliance body has argued that the reservation lost force once Hong Kong began to elect LegCo, the position of the PRC is that the reservation remains in effect. (The UK takes the view that findings by the UN's bodies "do not determine the legal status of reservations," but publicly supports universal suffrage in Hong Kong. The European Commission recently weighed in on the debate, with its Director General for External Relations for Asia publicly citing the ICCPR as an "extremely strong international consensus" on the definition of universal suffrage that should be applied to Hong Kong.") Thus, while the Basic Law and the December 2007 NPC/SC decision both use the term "universal suffrage," the fact that the Hong Kong government and Beijing (via proxies) both continue to refer to the reservation has raised fears among the pan-democrats that Beijing will offer something less than true universal suffrage.

15. (C/rel UK) Most acrimonious is the debate on the future of LegCo's small-circle, sectorally based functional constituencies (FCs). While pan-democrats are adamant that FCs have no place in a democratically-constituted LegCo, an increasing number of pro-establishment voices (though not the major pro-Beijing political parties) are arguing that, suitably reformed, FCs can pass universal suffrage muster.

Standing

16. (C) Section 2(5) of the U.S. Hong Kong Policy Act (HKPA) states that "support for democracy is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy towards Hong Kong. This will remain equally true after June 30, 1997." We thus regard active support for Hong Kong's democratic development, as defined and fixed as an objective by the Basic Law, as an obligation set by the HKPA and consistent with long-standing U.S. policy. Furthermore, we have for many years stated publicly our belief that the Hong Kong people are ready for universal suffrage, and that Hong Kong people should decide the scope and pace of movement toward universal suffrage in accordance with the Basic Law.

17. (C) Moreover, we are already being asked our opinion. The Constitutional and Mainland Affairs Bureau (CMAB; the lead agency on the current 2012 reform consultation process) has invited our comment (and that of other Consulates General in Hong Kong) on the consultation document. Similarly, local media and our contacts are interested to hear our views on the debate. In Hong Kong's highly charged and inward-looking political and media environment, every U.S. statement (or decision not to make a statement) and action are subject to analysis, interpretation, and occasional malicious mischaracterization by Hong Kong politicians and media. It is important to articulate our position clearly; not doing so creates a risk that other parties will seek to characterize the U.S. position themselves to suit their agendas.

Proposed Strategy

18. (C/rel UK) The key objectives of our proposed strategy are:

-- Reiterate that the United States remains interested in

Hong Kong's success under the Basic Law and "one country, two systems," and our view that Hong Kong's successful democratic development will reinforce Hong Kong's core strengths that underpin its success;

-- At the same time, make clear the United States will not take a position on the specific proposals of any party. We will support any result that meets the internationally-recognized standard of universal suffrage that each citizen should have an equal right to vote and an equal right to be elected -- and that the majority of the Hong Kong people support;

-- Remind all those working for democracy in Hong Kong that we stand with them in their efforts, and that the international community has not forgotten Hong Kong; and

-- Complement and support efforts by the United Kingdom and the European Union so that no single country or organization can be singled out as a "troublemaker."

Core Points

¶9. (C/rel UK) With Department concurrence, Post proposes to use the following core points as the basis for our inter-governmental dialogue with the Hong Kong government and our public diplomacy. Much of this language (or its essential meaning) has been used in previous press guidance and public comments by the Department.

-- We note that the Basic Law commits Hong Kong to elections of the Chief Executive and the Legislative Council by universal suffrage. The December 2007 National People's Congress Standing Committee decision reaffirms this commitment, and offers a timetable for the implementation of elections by universal suffrage.

-- The United States supports the consistently expressed aspiration of the Hong Kong people to achieve elections by universal suffrage at the earliest date possible.

-- We believe that the specific arrangements by which Hong Kong achieves its transition to universal suffrage are for the Hong Kong people to decide.

-- We support any such arrangements that meet the internationally-recognized universal suffrage standard of "equal right to vote and equal right to be elected" and that win the support of the Hong Kong people.

-- We believe the best means to achieve these goals is through a broad-based dialogue between the government of the Hong Kong SAR and the people of Hong Kong, including their elected representatives from all parties and organizations. We equally support dialogue among those parties with the goal of finding consensus on steps which will lead Hong Kong forward towards its stated goals.

Operational Steps

¶10. (C) With the Department's concurrence, our initial step would be to convey the core points to the Hong Kong Bureau of Constitutional and Mainland Affairs at the Acting Consul General-Bureau Secretary level.

¶11. (C) Subsequently, our Public Affairs and Economic/Political sections will work to identify appropriate public diplomacy vehicles to get our message out clearly and distinctly while not raising our profile so high that our actions themselves become a political issue.

MARUT